

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17496
[Redacted],)	
)	DECISION
Protestants.)	
_____)	

On May 19, 2003, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable years 1996 through 1999 in the total amount of \$12,774.

On July 15, 2003, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not respond to the Tax Commission's hearing rights letter and have not provided any additional information. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) found that the taxpayers received wages that were reported to the Idaho Department of Labor for the years 1996 through 1999. The Bureau researched the Tax Commission's records and found that the taxpayers had not filed Idaho individual income tax returns for those years. The Bureau contacted the taxpayers and asked them about their requirement to file Idaho income tax returns. The taxpayers responded with a copy of their 2000 federal and state returns. Idaho's return was among the state returns. The taxpayers stated they thought they had filed returns for 1996 through 1999. Further contact with the taxpayers revealed that the taxpayers were in the construction trade traveling from coast to coast but no returns were secured.

The Bureau obtained additional information [Redacted] and determined the taxpayers were required to file Idaho individual income tax returns. The Bureau prepared returns for the taxpayers on the premise that the taxpayers moved to Idaho in 1996 and were residents through 1999. The Bureau sent the taxpayers a Notice of Deficiency Determination, which the taxpayers protested. The taxpayers stated they did live in Idaho during part of the time the Bureau was asserting. They stated Mr. [Redacted] worked on a job in [Redacted] but was paid by a company based in [Redacted]. The taxpayers said Mr. [Redacted] was working in other states for part of the time that they lived in Idaho. The taxpayers stated that in 1999 they moved to [Redacted].

The Bureau attempted to get further information from the taxpayers, but its requests went unanswered. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayers a letter giving them two options for having the Notice of Deficiency Determination redetermined. The taxpayers did not respond, so the Tax Commission sent them a follow-up letter. Still the taxpayers failed to respond. Therefore, the Tax Commission issued its decision based upon the information available.

In 1996, the taxpayers came to Idaho. Mr. [Redacted] acquired an Idaho driver's license in September 1996. He also purchased an Idaho Fish and Game license in September 1996. In February 1997, Mrs. [Redacted] acquired an Idaho driver's license. The Idaho Department of Labor reported wages for Mr. [Redacted] for the years 1996, 1997 and 1999. For Mrs. [Redacted], the Idaho Department of Labor reported wages for the years 1997, 1998 and 1999. Other information [Redacted] showed the taxpayers used Idaho addresses in each of the years 1996 through 1999. Therefore, it appears the taxpayers were present in Idaho for at least part of each year.

The taxpayers admitted to being in Idaho for part of the time for the years in question. However, it is doubtful the taxpayers established a domicile in Idaho. Evidence of this is found [Redacted] showing mortgage interest paid by the taxpayers to the same financial institution from 1996 to 2001. Although the location of a financial institution does not indicate where a house is located, it does show that the taxpayers had a house prior to coming to Idaho. To further support this assumption, the Bureau did a property search in the [Redacted] county where the taxpayers lived and found that the taxpayers did not own any property in that county. Owning a house or a home in another state is a good indication that the taxpayers intended to return to that location and that that location was the taxpayers' domicile.

Since the taxpayers' domicile was somewhere other than Idaho, the Tax Commission needed to determine whether the taxpayers were residents, part-year residents or nonresidents of Idaho for the years in question. Idaho Code section 63-3013 stated that a resident is an individual who is domiciled in the state for the entire taxable year; or maintains a place of abode in Idaho for the entire taxable year and spends in the aggregate more than 270 days of the taxable year in the state. As previously stated, it is doubtful the taxpayers established an Idaho domicile; therefore, to be residents, the taxpayers must have spent more than 270 days in each of the taxable years in Idaho and maintained a place of abode in Idaho.

The information available suggests the taxpayers were not in Idaho more than 270 days in any one taxable year. The taxpayers stated Mr. [Redacted] worked in construction and that he worked in other states. This is confirmed by the information [Redacted] that shows the taxpayers' income for each of the years was more than the wages reported to the Idaho Department of Labor. The information implies the taxpayers were not in Idaho permanently but only for employment reasons.

Since the taxpayers likely do not meet the requirements for statutory residents, the Tax Commission must determine whether the taxpayers meet the definition of part-year residents or nonresidents. Idaho Code section 63-3013A defined a part-year resident as an individual who is not a resident and who has changed his domicile from Idaho or to Idaho during the taxable year or who has resided in Idaho for more than one day during the taxable year. Idaho Code section 63-3014 defined a nonresident as any individual who is not a resident or part-year resident.

It is unknown when the taxpayers first came to Idaho. What is known is that Mr. [Redacted] got an Idaho driver's license in September 1996 a few days before his birthday. He also purchased a resident fish and game license. Mrs. [Redacted] acquired her Idaho driver's license in February 1997. The taxpayers had Idaho addresses during the years and those addresses must have been given to employers or the taxpayers were working in Idaho for the employers to report wages to the Idaho Department of Labor. Since the taxpayers had wages reported to the Idaho Department of Labor and they both obtained Idaho driver's licenses, the taxpayers apparently felt they were at least part-year residents of Idaho in 1996 and 1997. As for 1998 and 1999, the taxpayers did have wages reported to the Idaho Department of Labor; however, the wages reported for 1998 were for Mrs. [Redacted] and were less than \$1,000.

Most of the income the taxpayers received in 1998 was nonemployee compensation Mr. [Redacted] received from two construction companies; one based in Texas, the other in [Redacted]. The [Redacted] company was permitted by the Tax Commission, but the [Redacted] company--the one paying substantially all the nonemployee compensation--had no record with the Tax Commission. Then in 1999, the taxpayers had substantial wages reported to the Idaho Department of Labor.

Based upon all the available information, the Tax Commission found that the most reasonable residency status for the taxpayers was part-year residents. The Tax Commission found that the use of the Idaho addresses and the wages reported to the Idaho Department of Labor were sufficient to find the taxpayers as part-year residents of Idaho for each of the years in questions. As a result, the Tax Commission determined the income reportable to Idaho as the wages reported to the Idaho Department of Labor and any other income that appeared to be received while the taxpayers were living in Idaho.

WHEREFORE, the Notice of Deficiency Determination dated May 19, 2003, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$ 139	\$ 35	\$ 82	\$ 256
1997	651	163	327	1,141
1998	329	82	138	549
1999	1,902	476	665	<u>3,043</u>
			TOTAL DUE	<u>\$4,989</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed.

DATED this ____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2005, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
